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OFFICE OF THE  
May 11, 2001 EXECUTIVE SECRETARY

David Waddell, Esq.  
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Tennessee Regulatory Authority  
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Nashville, TN 37243-0505

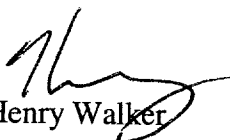
Re: All Telephone Companies Tariff Filings Regarding Reclassification of pay  
Telephone Service as Required by FCC Docket No. 96-128  
Docket No. 97-00409

Dear David:

Please find enclosed the original and thirteen copies of comments filed on behalf of the Tennessee Payphone Owners Association in the above-captioned proceeding. Copies have been sent to parties.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:   
Henry Walker

HW/nl  
Enclosure

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**IN RE:       TARIFF FILINGS BY LOCAL EXCHANGE COMPANIES TO COMPLY  
              WITH FCC ORDER 96-439 CONCERNING THE RECLASSIFICATION  
              OF PAY TELEPHONES**

**DOCKET NO. 97-00409**

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**COMMENTS OF THE TENNESSEE PAYPHONE OWNERS ASSOCIATION**

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The Tennessee Regulatory Authority has requested comments from the parties concerning the revised "Payphone Cost Study" filed in this proceeding by United Telephone-Southeast, Inc. ("United"). The study, filed May 1, 2001, in response to a request from the TRA staff, concludes that the average "cost-based" rate of a pay telephone access service ("PTAS") line in United's area is \$29.36 per month and \$0.0037 per minute for usage. The comparable BellSouth rates, recently approved by the TRA, are \$13.78 per line and \$0.0042 for usage. The comparable TRA-approved rate for Citizens Telecommunications Company of Tennessee is \$13.22 per line and \$0.00175 for usage. The rate for Citizens Telecommunications Company of the Volunteer State is a flat rate, which includes usage, of \$20.54.

In other words, the PTAS line rate proposed by United is approximately twice the line rates approved for BellSouth and Citizens. BellSouth, United, and Citizens are, respectively, the state's three largest, incumbent local telephone service providers. Each carrier's service area includes both rural and urban territories. There is no readily apparent reason why one carrier's average line rate should be twice the line rates of the other two carriers. Although United participated in the determination of rates for BellSouth and Citizens and is presumably familiar with the cost studies filed by those carriers, United has thus far made no attempt to explain to the Authority why the results vary so widely or whether TRA approval of United's proposed rates

would be consistent with the Authority's approval of much lower rates for the other carriers. On the face of it, any such approval – without a thorough explanation of the reasons for the different results – would appear to be at odds with the Authority's earlier decisions and could render those decisions vulnerable to legal challenge. Therefore, both the TRA and the Tennessee Payphone Owners Association (TPOA) should undertake a thorough review of United's cost study before making any decision on United's rates.

United, presumably, would agree that such a review is warranted. Just five months ago, an expert witness testifying on behalf of United told the Authority that the "costs" of United's system should be approximately the same as the "costs" of BellSouth's system. Any significant differences "justify reviewing." Testimony of Daniel Gordon in Docket 00-00544, tr. vol. IVB, at 100-101. Mr. Gordon said,

A. I think that if a company comes up with – if one company comes up with an accurate cost that represents what the costs really are, and another company comes up with a result that is, let's say, significantly different, I think it justifies reviewing.

Q.. . . it's your testimony that it's only when the input assumptions for BellSouth and Sprint diverge that you think that any more detail is necessary; correct?

A. Correct. We're – I'll add more explanation to my testimony, We're both in the business of providing local services within Tennessee, we've both been doing it for quite a number of years, We both subscribe to the same engineering practices. We're both in business so we're trying to obtain the best cost we can for our materials. And if the end result is similar, then we both did it right. If one company using similar inputs comes up with a cost that is drastically or significantly different, then I think it merits review.

As Mr. Gordon testified, when two carriers independently arrive at similar results, then regulators can conclude, "Hey, both of them did it right." *Id.*, at 99. BellSouth and Citizens both filed cost studies which reached very similar results. United's cost study, however, reaches

a substantially different result and, therefore, “merits review” to determine whether it has been conducted using the same methodology as BellSouth’s study and Citizen’s study and to determine the extent to which “input assumptions” vary among the three studies. The only practical means of conducting this review, obtaining the necessary information from United, and placing that evidence in the record is to allow the parties to conduct discovery and, if necessary, an evidentiary hearing.

TPOA regrets the necessity of additional delay in resolving this long overdue docket, but there is apparently no other way to “review” United’s cost study without further proceedings. TPOA, for example, cannot effectively challenge United’s cost study without the opportunity to submit interrogatories and, if need be, cross-examine the authors of United’s study.

Therefore, TPOA requests that the TRA set a procedural schedule which will allow the parties to develop and present evidence concerning whether the rates proposed by United are consistent with the TRA-approved rates of BellSouth and Citizens and whether United’s rates are otherwise consistent with applicable federal law.<sup>1</sup> That is the best -- and perhaps the only -- way to get to the bottom of the differences between the cost study filed by Tennessee’s second largest local carrier and the cost studies submitted by the first and third largest carriers.

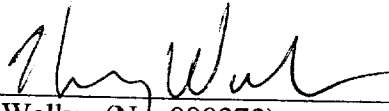
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<sup>1</sup> As TPOA has previously informed the Authority, TPOA believes that the FCC will, within the next two to three months, issue an order clarifying the issues raised in the *Wisconsin* order. That decision would presumably assist the Authority in reviewing United’s rates.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: \_\_\_\_\_



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## CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2001, a copy of the foregoing document was served on the parties of record, via U.S. Mail, addressed as follows:

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